



September 7, 2011

Senate Natural Resources, Environment and Great Lakes Committee
Lansing, Michigan

Re: HB 4298 – Easements over state land

Dear Senators,

The Michigan Environmental Council supports granting access to people who purchased land with the reasonable expectation of access to those properties. However, we are concerned that the bill as written is too broadly written and will result in litigation against state agencies for easements by property owners who purchased property (at a discount) with full knowledge of the lack of road access to the property.

These roads may devalue other properties, whose owners paid a premium for property adjacent to state land with the expectation that commercial development activities (such as oil and gas production) would be limited in the vicinity. In addition, the construction of roads could have significant impacts to natural resources including sediment runoff into rivers and streams.

We urge the committee to consider the following amendments:

- 1) Limit the bill to residential property where access was presumed due to the existence of a road at the time of purchase:

Amend page 3, line 8, after "FOR", by deleting "A ROAD" and inserting, "ACCESS VIA EXISTING ROADWAYS TO ACCESS AN EXISTING RESIDENTIAL STRUCTURE".

- 2) Do not require (but allow) the granting of the easement if property was purchased with knowledge of the lack of access:

Amend page 3, after line 13, after "LAND.", by inserting:
"THE DEPARTMENT MAY DENY A REQUEST PURSUANT TO THIS
SUBSECTION IF THE PARCEL WAS PURCHASED WITH KNOWLEDGE OF
THE LACK OF VEHICLE ACCESS TO THE PROPERTY."

Lastly, we are concerned with the possible conflict with the laws regarding the subdividing and development of land parcels. We therefore think that it is important to

be precise with language when dealing with property rights and removing potential ambiguities. In this case, with think the language may raise questions regarding access and the application of the Land Division Act. In order to address those concerns, we would suggest the addition of the following language to HB 4298 (H-4):

Amend page 3, after line 22, by inserting, "(D) THE PARCEL OF LAND WAS LEGALLY CREATED IN COMPLIANCE WITH STATE LAW AND LOCAL ORDINANCES."

Amend page 4, after line 19, by inserting:

"(4) THIS SUBSECTION SHALL NOT BE CONSTRUED AS MAKING A PARCEL OF PROPERTY ACCESSIBLE FOR PURPOSES OF THE LAND DIVISION ACT, PUBLIC ACT 288 OF 1967, MCLA 560.101 – 560.293, UNLESS THE DEPARTMENT HAS GRANTED AN EASEMENT PURSUANT TO THIS SUBSECTION."

MEC does not support forcing the state to allow roads to be construction in areas where runoff could impact rivers and streams. In addition, we are concerned this bill will result in unplanned and illogical splitting of parcels without granting access forcing new roads where they are not necessary. We urge the committee to revise the proposed legislation before moving the bill from committee.

Sincerely,

A handwritten signature in black ink, appearing to be "J. Clift", with a stylized, looping flourish at the end.

James Clift, Policy Director